



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
Before the Board of Patent Appeals and Interferences

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W. Lawson
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of Confirmation No.: 3408
Tomihisa KAMADA et al Art Unit: 2611
S. N. 09/319,649 Examiner: H. V. Tran

Filed: June 10, 1999

For: METHOD AND DEVICE FOR OBTAINING AUDIENCE DATA ON TV
PROGRAMS

REPLY BRIEF ON BEHALF OF APPELLANT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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Sir:

This is a reply brief responding to the Examiner's Answer
that was mailed June 16, 2004.

ARGUMENT

In the rejection and Examiner's Answer, while it is not
explicitly stated by the Examiner, it seems that the Examiner is
asserting that it would be obvious to modify Welsh to have a
start time, end time or duration.

However, Welsh does not have any need to determine any of
these items (start time/end time/duration) because all that Welsh
is concerned with determining is whether a commercial was viewed
at all. Welsh is not concerned with determining whether the user
watched the entire commercial. Nor does Welsh want to or need to
know what duration of time the commercial was viewed.

At page 5 of the Examiner's Answer, the Examiner repeats the reasoning from the office actions, and says that Welsh teaches detecting times at which a viewing of the channel is started and ended, referring to element 200 of FIG. 7 and lines 5-15 of column 6 and lines 32-40 of column 14..

Element 200 of FIG. 7 is the viewing table, which includes item 208 "time". In study of the text of Welsh, item 208 is the time that the program was *identified* as being viewed (item 210 is the date that the program was identified as being view).

There is no explicit mention in Welsh that the time would be a start and end time nor a duration. Welsh says only that it is the time "that the program was identified as having been viewed in the home." (column 14, lines 38 and 39 of Welsh).

It is applicant's position and belief that when the Examiner says that the household system of Welsh must detect times at which viewing started and ended, the Examiner is reading some of the applicant's teachings into Welsh. Welsh does not mention start or end time or duration, but only says the time that the program was *identified* as having been viewed.

Therefore, applicant respectfully submits that it is not correct to say that start and end time must be present in Welsh. Instead, what Welsh records as a time is the "time the program was identified as having been viewed".

The Examiner says that Welsh identifies a program ID of the currently viewed program from the TV program table data by

comparing the detected channel and current time with the channel and time information of the TV program table data. (page 5 of the Answer).

Applicant does not see anywhere in Welsh that says the detected channel is compared with channel information of the TV program table data.

Welsh says that the in the objects of the invention "other objects are achieved by monitoring in the panelist's household the programs and commercials on the channel to which the viewer is tuned." (column 3, lines 20-22). It does not say that the channel is detected, but only that programs and commercials are monitored.

Applicant respectfully submits that the only time that is recorded in Welsh is the time that the program is *identified* as having been viewed, not the time that viewing was started, not the time that viewing was ended, not the duration of the viewing. Applicant's reading of Welsh is that it is the time that Welsh's system makes the identification that is determined, and no other time is determined or recorded by Welsh.

Still further, Welsh does not, in applicant's reading, store the viewed channel information in element 200. Welsh determines a program identification code, but there is not any teaching in Welsh that this code is somehow related to the channel. Welsh is determining this program identification code from the closed caption information data, but is not detecting the channel.

The Examiner says that Welsh must determine a view start and end time of each viewed program and a difference between the start and end time, referring to element 200. But start, end and duration times are not part of element 200 of Welsh. Element 200 has only these items: HIN (household identification number) 202, PIC (panel identification code) 204, PIC (program identification code) 206, TIME (time that the program was identified as viewed) 208 and DATE (date that the program was identified as viewed).

While start, end and duration might be interesting and useful information, Welsh does not teach this nor does Welsh desire the information nor have any particular need for or use for this information. Welsh only teaches a date/time, not start, end and duration. It is applicant's teaching that mentions the usefulness or desirability of determining this information.

At page 11 of the Answer, the Examiner says that Welsh teaches a system that detects times at which viewing of the channel program is the times at which a viewing of the channel is started and ended. As noted above, applicant respectfully submits that the Examiner's statement of what Welsh teaches is not correct, as start and end times are not mentioned in Welsh, but only a single time at which Welsh identified the commercial was viewed. Welsh does not consider start and end times nor duration of viewing. Welsh is merely concerned with the event of viewing having occurred, without any thought of how long it was viewed nor of the start or end time.

Applicant's reading of Welsh does not locate any discussion or suggestion of start time, end time or duration.

One can argue, as the Examiner seems to, that it is might be desirable to have such things in Welsh, but it is the applicant's teaching that provides the suggestion and these limitations are provided by the applicant, not by Welsh.

In view of the foregoing, it is submitted that claims 1-25 of this application are patentable, and it is accordingly requested that the Examiner's final rejection be reversed and that allowance of this application be directed.

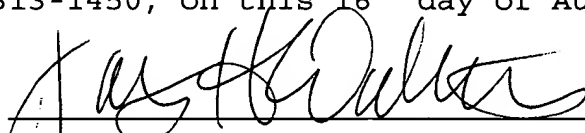
Respectfully submitted,


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I hereby certify that this correspondence is being deposited as first class mail with the United States Postal Service in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 16th day of August, 2004.


James H. Walters